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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/036,135
Filing Date: November 07, 2001
Appellant(s): SHIN ET AL.

Stephen C. Bishop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/4/2008 appealing from the Office action mailed 3/27/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,757,771	LI	5-1998
5,703,875	BURNETT	12-1997
5,497,371	ELLIS	3-1996

5,343,473	CIDON	8-1994
2003/0189922	HOWE	10-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16 and 19-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Li (USP 5757771).

Regarding claim 16, Li discloses a method in a communications device (Fig 5b) for transmitting packets, the method comprising receiving packets in an order, each packet being a first packet type or a second packet type (Col. 5, lines 54-67, the switch stores each type of packets in each associated queue), transmitting the received packets in an order in which whether the packets are a first packet type or a second packet type (Col. 3, lines 30-44), unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time (Fig 3, 302, 304, 310 and 308; See col. 9, line 13 to col. 12, line 61 or col. 4, lines 30-44).

Regarding claim 19, Li discloses the selecting includes applying a selection algorithm (priority-based selection) that gives preference to selecting control packets over data packets (col. 4, lines 30-44).

Regarding claims 20-22, Li discloses the communications device has multiple ports (Fig 5b, Ref 508 and 510), the packets are received via a single port (Fig 5b, Ref 508); received packets to be transmitted via the same port (Fig. 5B, Ref 510) and the packets are received via different ports (Fig 5B, Ref 508).

Regarding claim 23, Li discloses the communications device is a switch (Fig 5b) that connects host devices to data storage devices (Fig 5B which used to coupled host and storage).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 12, 14-23, 25-30, 32 and 34-35 rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett (USP 5703875) in view of Li (USP 5757771).

Regarding claim 1, Burnett discloses method in a communications device for transmitting packets (Fig 2) comprising receiving packets, each packet being a control packet or a data packet (col. 2, lines 1-9); storing the received packets in memory of the communications device (col. 2, lines 19-29); stored packets include a control packet and data packet (col. 2, lines 30-39); retrieving the selected packet from memory of the communications device and transmitting the retrieved packet (col. 2, lines 40-44). However, Burnett fails to disclose when the stored packets include a control packet and a data packet, determining whether the data packet has been delayed more than a certain amount of time; when it is determined that the data packet has been delayed

more than the certain amount of time, selecting the data packet; and when it is determined that the data packet has not been delayed more than the certain amount of time, selecting the control packet. In the same field of endeavor, Li discloses when the stored packets include a control packet and a data packet (Fig 5B, Ref 504), determining whether transmitting of the control packet has been delayed the transmitting of the data packet more than a certain amount of time (Fig 3, ref 308); when it is determined that the data packet has been delayed more than the certain amount of time, selecting the data packet (Fig 3, Ref 302-310); and when it is determined that the data packet has not been delayed more than the certain amount of time, selecting the control packet (Fig 3, Ref 302 and 304; See col. 9, line 13 to col. 12, line 61).

Since, a method and system for transmitting a low priority packet before the high priority packet is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for transmitting a low priority packet before high priority packet if the waiting time of the low priority packet is exceeds a delay threshold as disclosed by Li into the method and system of Burnett. The motivation would have been to provide a fairness service by providing a low priority packet with a minimum bandwidth so that the high priority packet is not continuously preempted the low priority packet.

Regarding claims 25-26, Burnett disclose a communications device (Fig 2) comprising a receive component that receives packets and stores the received packets in the memory (Fig 2, Ref 12 and 13), each packet being a control packet or a data packet, wherein control packets are stored in a control packet queue (Fig 2, Ref 12) and data packets are stored in a data packet queue (Fig 2, Ref 13); and a transmit component that retrieves the packets from the memory that

transmits the retrieved packets in order of retrieval (col. 2, lines 19-44). However, Burnett fails to disclose the retrieving is associated with a selection algorithm that if each queue contains a packet the selection algorithm selects a control packet for retrieval unless a certain condition, when the selection of a control packet would delay the transmitting of a data packet more than a certain amount of time, is satisfied in which case the selection algorithm selects a data packet for retrieval. In the same field of endeavor, Li discloses the retrieving is associated with a selection algorithm (Fig 3) that if each queue contains a packet the selection algorithm selects a control packet (Fig 3, ref 302) for retrieval unless a certain condition, when the selection of a control packet would delay the transmitting of a data packet more than a certain amount of time (Fig 308), is satisfied in which case the selection algorithm selects a data packet for retrieval (See col. 9, line 13 to col. 12, line 61).

Since, a method and system for transmitting a low priority packet before the high priority packet is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for transmitting a low priority packet before high priority packet if the waiting time of the low priority packet is exceeds a delay threshold as disclosed by Li into the method and system of Burnett. The motivation would have been to provide a fairness service by providing a low priority packet with a minimum bandwidth so that the high priority packet is not continuously preempted the low priority packet.

Regarding claim 2, Burnett discloses the memory of the communications device includes a portion for storing data packets (Fig 2, ref 13) and separate portion for storing control packets (Fig 2, ref 12).

Regarding claims 3 and 27, Burnett discloses each portion of the memory is a FIFO buffer (Fig 2).

Regarding claims 4 and 28, Burnett discloses the communications device has multiple ports and the selecting of the stored packet is performed for packets to be transmitted via the same port (Col. 2, lines 19-38).

Regarding claim 5, Burnett discloses the packets with a packet type of control include command packets (col. 1, lines 18-22).

Regarding claim 6, Burnett discloses the packets with a packet type of control include status packets (col. 1, lines 18-22).

Regarding claim 7, Burnett discloses the packets with a packet type of control include message packets (Fig 2, Ref 12, Col. 2, lines 55-60).

Regarding claims 8, 29 and 30, Burnett further discloses while transmitting a data packet, receiving a control packet; interrupting the transmission of the data packet; transmitting the control packet; and after the control packet is transmitted, continuing with the interrupted transmission of the data packet (col. 2, line 61 to col. 3, line 17).

Regarding claims 12 and 32, Burnett discloses the communications device is a switch that connects host devices to data store devices (fig. 1 and col. 1, line 66 - col. 2, line 9).

Regarding claims 14 and 34, Burnett discloses the selecting includes selecting control packets before selecting data packets (col. 1, lines 43-48).

Regarding claims 15 and 35, Burnett discloses the selecting includes applying a selection algorithm (priority-based selection) that gives preference to selecting control packets over data packets (col. 1, lines 36-51).

Regarding claim 16, Burnett discloses a method in a communications device for transmitting packets, the method comprising receiving packets in an order, each packet being a first packet type or a second packet type (col. 1, lines 36-42), transmitting the received packets in an order in which whether the packets are a first packet type or a second packet type (col. 1, lines 36-51 and col. 2, lines 19-45). However, Burnett fails to disclose unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time. In the same field of endeavor, Li discloses unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time (Fig 3, 302, 304, 310 and 308; See col. 9, line 13 to col. 12, line 61).

Since, a method and system for transmitting a low priority packet before the high priority packet is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for transmitting a low priority packet before high priority packet if the waiting time of the low priority packet is exceeds a delay threshold as disclosed by Li into the method and system of Burnett. The motivation would have been to provide a fairness service by providing a low priority packet with a minimum bandwidth so that the high priority packet is not continuously preempted the low priority packet.

Regarding claims 17-18, Burnett discloses the first packet type is a data packet and the second packet type is a control packet and control packets are transmitted before data packets (col. 1, lines 36-51).

Regarding claim 19, Burnett discloses the selecting includes applying a selection

algorithm (priority-based selection) that gives preference to selecting control packets over data packets (col. 1, lines 36-51).

Regarding claim 23, Burnett discloses the communications device is a switch that connects host devices to data storage devices (Fig. 1 and col. 1, line 66 - col. 2, line 9).

Regarding claims 20-21, Burnett discloses the communications device has multiple ports (Fig. 1), the packets are received via a single port (Fig. 1, Ref 23); and the selecting of the stored packets is performed for packets to be transmitted via the same port (Fig. 1, ref 23).

Regarding claim 22, Burnett discloses the packets are received via different ports (Fig. 1, ref 23).

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett and Li in view of Ellis (USP 5497371).

Regarding claim 9, Burnett and Li fail to disclose each packet has a header and the continuing includes transmitting a header corresponding to the interrupted portion of the data packet. in the same field of endeavor, Ellis discloses continuing includes transmitting a header corresponding to the interrupted portion of the data packet (col. 2, line 55-65).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for attaching a header to the remaining part of the packet as disclosed by Ellis into the system and method of Burnett and Li. The motivation would have been to protect the interrupted packet.

6. Claims 13, 24 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett/Li as applied to claims 1, 16 and 25 above, and further in view of Howe (USP 20030189922).

Regarding claim 13, 24 and 33, Burnett/Li fail(s) to disclose the communications device is part of a storage area network. However, Howe teaches a communications device (Fig. 9, an integrated layer one switch having similar functions as disclosed in claim 1) is part of a storage area network (par. 0077). Therefore, as was taught by Howe, it would have been obvious to have the communications device of Burnett/Li configured as part of a storage area network in order to provide a variety of applications for the packet-based communications network using the method of packet ordering based on the packet type.

7. Claims 10-11 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett and Li as applied to claims 1 and 25 above, and further in view of Cidon (USP 5343473).

Regarding claim 10, Burnet and Li fail to disclose continuing transmitting includes transmitting the remainder of the data packet without transmitting a new header. However, Cidon discloses continuation of a data packet transmission after an interruption of a control packet can be done by transmitting the remainder of the data packet without a new header (Fig 2, Ref 20h discloses the remainder of packet is transmitting without header).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply a step of continuing transmitting of the remainder of the data packet without transmitting a new header as disclosed by Cidon into Li and Burnet's method since an advantage of doing so is to maintain the integrity of data packets before and after the interruption made by the control packet.

Regarding claims 11 and 31, Burnett discloses the interrupting of the transmission includes transmitting a control message to preempt any data message currently transmitted and continuing the interrupted transmission by reverting the crossbar state to resume data message

(col. 3, lines 7-17). Burnett and Li differ from the claimed invention in that he does not teach transmitting a preempt primitive and a continue primitive before and after the interruption, respectively. However, Cidon discloses a method and system for transmitting a preempt primitive and a continue primitive before and after the interruption, respectively (Fig 2, Ref 20C, preempt on and 20G is preempt off and the remainder of packet 20b will be transmitting, Col. 5, lines 56 to col. 6, lines 8).

Since, Burnett suggests the use of start and end of message and preemption indicator. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply a preempt primitive and a continue primitive before and after the interruption, respectively as disclosed by Cidon into the system and method of Burnett and Li in order to inform the receiving side of the start and ending of the interruption prioritized by the control packet.

8. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Li (USP 5757771).

Li fails to disclose the type of packet is one of control or data packet wherein control packet is preferred over data packet when transmitting via a switch. However, the examiner take an official notice that a method and system comprising control packet and data packet wherein control packet is transmitted before data packet is well known and expected in the art at the time of invention was made. Therefore, it would have been obvious to one of ordinary skill in the art to apply this method into the teaching of Li. The motivation would have been to maintain the quality of the system.

(10) Response to Argument

In the appeal brief, the appellant states that (1) Li fails to disclose "receiving packets in an order, each packet being a first packet type or a second packet type; and transmitting the received packets in an order that is different from the order in which the packets were received based on whether the packets are a first packet type or a second packet type, unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time." (2) Burnett and Li fail to disclose "determining whether the data packet has been delayed more than a certain amount of time; when it is determined that the data packet has been delayed more than the certain amount of time, selecting the data packet." (3) Burnett and Li fail to disclose "transmitting the received packets in an order that is different from the order in which the packets were received based on whether the packets are a first packet type or a second packet type, unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time." (4) Burnett and Li fail to disclose "a transmit component that retrieves the packets from the memory, wherein the retrieving is associated with a selection algorithm that if each queue contains a packet the selection algorithm selects a control packet for retrieval unless a certain condition is satisfied in which case the selection algorithm selects a data packet for retrieval and that transmits the retrieved packets in order of retrieval." (5) There is no suggestion or motivation to combine reference teachings and Burnett teaches away.

With respect to (1), the appellant states that Li fails to disclose "receiving packets in an order, each packet being a first packet type or a second packet type; and transmitting the received packets in an order that is different from the order in which the packets were received based on

whether the packets are a first packet type or a second packet type, unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time." In reply, Li discloses a method for receiving packets in an order, each packet being a first packet type or second packet type (See col. 5, lines 15-24, discloses each queue contains packets of class of service such as voice being CBR or data being VBR See col. 1, lines 19-26, wherein CBR has an output priority higher than VBR, See col. 4, lines 12-44), transmitting the received packets in an order that is different from the order in which the packets were received based on whether the packets are a first packet type or a second packet type (See col. 4, lines 12-44, CBR packet has a higher output priority than the VBR; therefore, it will be forwarding out of the queue before forwarding VBR packet, even CBR packet received after VBR packet, See col. 5, lines 10-25, col. 7, lines 40-47), unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time. Col. 4, lines 30-44, col. 9, lines 35-46 and Fig 3 and Fig 4, disclose before forwarding a packet from a queue having a higher output priority, the switch checks if a packet in a queue with a lower output priority which is waiting for transmitting out of the queue, exceeded a delay threshold or determined period of time. If yes, then the packet VBR data in the low output priority queue is forwarded before CBR voice; otherwise, the packet CBR voice is forwarded, So Li clearly discloses unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time.

With respect to (2), the appellant states that Burnett and Li fail to disclose "determining whether the data packet has been delayed more than a certain amount of time; when it is determined that the data packet has been delayed more than the certain amount of time, selecting

the data packet." Li discloses determining whether the data packet has been delayed more than a certain amount of time; when it is determined that the data packet has been delayed more than the certain amount of time, selecting the data packet. Col. 4, lines 30-44, col. 9, lines 35-46 and Fig 3 and Fig 4, disclose before forwarding a packet from a queue having a higher output priority, the switch checks if a packet in a queue with a lower output priority which is waiting for transmitting out of the queue, exceeded a delay threshold or determined period of time. If yes, then the packet VBR data in the low output priority queue is forwarded before CBR voice; otherwise, the packet CBR voice is forwarded, So Li clearly discloses determining whether the data packet has been delayed more than a certain amount of time; when it is determined that the data packet has been delayed more than the certain amount of time, selecting the data packet.

With respect to (3), the appellant states that Burnett and Li fail to disclose "transmitting the received packets in an order that is different from the order in which the packets were received based on whether the packets are a first packet type or a second packet type, unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time". In reply, Li discloses a method for transmitting the received packets in an order that is different from the order in which the packets were received based on whether the packets are a first packet type or a second packet type (See col. 4, lines 12-44, CBR packet has a higher output priority than the VBR; therefore, it will be forwarding out of the queue before forwarding VBR packet, even CBR packet received after VBR packet, See col. 5, lines 10-25, col. 7, lines 40-47), unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time. Col. 4, lines 30-44, col. 9, lines 35-46 and Fig 3 and Fig 4, disclose before forwarding a packet from a queue having a higher

output priority, the switch checks if a packet in a queue with a lower output priority which is waiting for transmitting out of the queue, exceeded a delay threshold or determined period of time. If yes, then the packet VBR data in the low output priority queue is forwarded before CBR voice; otherwise, the packet CBR voice is forwarded, So Li clearly discloses unless the transmitting of a packet in the different order would delay the transmitting of a packet more than a certain amount of time.

With respect to (4), the appellant states that Burnett and Li fail to disclose "a transmit component that retrieves the packets from the memory, wherein the retrieving is associated with a selection algorithm that if each queue contains a packet the selection algorithm selects a control packet for retrieval unless a certain condition is satisfied in which case the selection algorithm selects a data packet for retrieval and that transmits the retrieved packets in order of retrieval." In reply, Burnett discloses a method and system comprising a selection algorithm which allows a control packet to preempt a data packet (control packet selected for transmitting before forwarding a data packet, even data packet has been arrive before the control packet, See Abstract) and Li discloses "a transmit component that retrieves the packets from the memory, wherein the retrieving is associated with a selection algorithm that if each queue contains a packet the selection algorithm selects a control packet for retrieval unless a certain condition is satisfied in which case the selection algorithm selects a data packet for retrieval and that transmits the retrieved packets in order of retrieval. Col. 4, lines 30-44, col. 9, lines 35-46 and Fig 3 and Fig 4, disclose a selection algorithm which performs as following: before forwarding a packet from a queue having a higher output priority, the switch checks if a packet in a queue with a lower output priority which is waiting for transmitting out of the queue, exceeded a delay

threshold or determined period of time. If yes, then the packet VBR data in the low output priority queue is forwarded before CBR voice; otherwise, the packet CBR voice is forwarded, So Li clearly discloses a transmit component that retrieves the packets from the memory, wherein the retrieving is associated with a selection algorithm that if each queue contains a packet the selection algorithm selects a control packet for retrieval unless a certain condition is satisfied in which case the selection algorithm selects a data packet for retrieval and that transmits the retrieved packets in order of retrieval.

With respect to (5), the appellant states that there is no suggestion or motivation to combine reference teachings, and Burnett teaches away.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Burnett discloses a communication device includes a plurality of queues for storing the packets wherein each queue associated with a packet type and priority and a queue manager will select a control packet for transmitting before transmitting the data packet from the queues. Li discloses a includes a plurality of queues for storing the packets of different types wherein each queue associated with a packet of different type, delay threshold and priority and a queue manager will use the delay threshold to determine if forwarding a lower priority packet type would delay the transmitting of the higher priority packet type for a delay threshold. Since,

a method and system for transmitting a low priority packet before the high priority packet is well known and expected in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for transmitting a low priority packet type before high priority packet type if the waiting time of the low priority packet is exceeds a delay threshold as disclosed by Li into the method and system of Burnett. The motivation would have been to provide a fairness service by providing a low priority packet type with a minimum bandwidth so that the high priority packet type is not continuously preempted the low priority packet or starving the lower priority packet type (Col. 11, lines 10-22).

In response to appellant's argument that Burnett teaches away from the invention because Burnet does not care about data packet. In reply, Burnett discloses a method for preempting the data packet if the system needs to forward a control packet. After forwarding the control packet, the system forwards the data packet. He clearly worries about data packet because he never aborts the data packet. The only different between the claimed invention and Burnet is the switch only forwards the control packet if a waiting time of the data packet in a queue less than a delay threshold. So, The Burnet does not teach away. Li discloses (See col. 5, lines 15-24, discloses each queue contains packets of class of service such as voice being CBR or data being VBR See col. 1, lines 19-26, wherein CBR has a output priority higher than VBR, See col. 4, lines 12-44, CBR packet has a higher output priority than the VBR; therefore, it will be forwarding out of the queue before forwarding VBR packet, even CBR packet received after VBR packet, See col. 5, lines 10-25, col. 7, lines 40-47, Col. 4, lines 30-44, col. 9, lines 35-46 and Fig 3 and Fig 4, disclose before forwarding a packet from a queue having a higher output priority, the switch checks if a packet in a queue with a lower output priority which is waiting for

transmitting out of the queue, exceeded a delay threshold or determined period of time. If yes, then the packet VBR data in the low output priority queue is forwarded before CBR voice; otherwise, the packet CBR voice is forwarded. Therefore, it would have been obvious to one of ordinary skill in the art to select Li's method to apply into the teaching of Burnett because the patents of Li and Burnett are a same field of endeavor by using a preemption method to implement their inventions. The motivation would have been to provide a fairness service by providing a low priority packet type with a minimum bandwidth so that the high priority packet type is not continuously preempted the low priority packet or starving the lower priority packet type (Col. 11, lines 10-22).

9. In response to applicant's argument of pages 12-14 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

10. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Art Unit: 2616

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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